

TO: BOARD OF DIRECTORS

FROM: DON SPAGNOLO 

DATE: JUNE 16, 2010

AGENDA ITEM

E-3

JUNE 23, 2010

APPROVE LAFCO SPHERE OF INFLUENCE MEMORANDUM OF AGREEMENT

ITEM

Consider approval of the Memorandum of Agreement between the District and the County of San Luis Obispo regarding the District's sphere of influence. [REVIEW AND APPROVE THE MEMORANDUM OF AGREEMENT]

BACKGROUND

The Local Agency Formation Commission ("LAFCO") is required to update the District's Sphere of Influence ("SOI") every five years. Pursuant to LAFCO policies the SOI establishes a twenty (20) year probable service area for the District. The District and the County of San Luis Obispo ("County") entered into a Memorandum of Agreement ("MOA") to establish the intended service levels within the SOI as approved by LAFCO as part of the 2005 SOI.

As part of the 2010 SOI and Municipal Service Review ("MSR") Update, a revised MOA regarding the service levels within the SOI is currently being negotiated with the County.

As part of the General Manager's report at the June 9, 2010, Board meeting, the Director's commented on the existing MOA negotiations. Based on Board comments, District staff met with LAFCO and County representatives to further clarify the MOA. Attached is a redlined MOA that identifies revisions to the MOA resulting from the continued negotiations and a clean copy of the same for Board approval.

In considering approval of the MOA staff notes that Section 2 of the Implementing Resolution provides: "The provisions found in Exhibit A are intended to provide the District and the County with guidance for evaluating future annexation proposals for the areas in the District's Sphere of Influence and do not supersede or limit either agency's mission of legislatively established function and do not bind either agency". Therefore the Agreement only establishes intended policies of the Parties regarding service levels within the MOA and is not a binding Contract related to service levels.

The County's approval of the MOA is currently scheduled for July 13, 2010. LAFCO approval of the District's Sphere of Influence and MSR is currently scheduled for July 15, 2010.

FISCAL IMPACT

Budget staff time has been expended in the preparation of this item.

RECOMMENDATION

Approve the Memorandum of Agreement with the County of San Luis Obispo regarding the NCSD's Sphere of Influence and direct staff to forward to the County of San Luis Obispo and LAFCO.

ATTACHMENTS

- Memorandum of Agreement (redlined)
- Memorandum of Agreement (Clean)

Redlined NCSD

06/11/2010

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**MEMORANDUM OF AGREEMENT
BETWEEN THE NIPOMO COMMUNITY SERVICES DISTRICT AND
THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE**

Exhibit A – PROVISIONS-Draft 6-8-10

The following provisions are agreed to and shall be used by the District and County to guide the development decisions within the Sphere of Influence as eventually approved by the San Luis Obispo Local Agency Formation Commission ("LAFCO").

1. **Intent.** It is the intent of the District and the County to work cooperatively toward the goals of preserving and protecting the rural character of the Nipomo area by: identifying areas of potential urban and suburban growth using the existing South County Area Plan (Inland, adopted 1994); implementing the District's annexation policies and procedures; and planning for future resource and service needs. These goals shall be achieved in accordance with the Cortese-Knox-Hertzberg Act ("CKH"), the County's General Plan, the Policies and Procedures of the District, the California Environmental Quality Act and any other applicable laws and regulations.
2. **Term.** Upon adoption of the District's Sphere of Influence ("SOI") by LAFCO, this agreement shall be reviewed, evaluated, or amended as necessary at such time as the SOI is updated by LAFCO, or concurrent with a comprehensive update of the South County Area Plan (Inland) adopted in 1994, as initiated by the County.
3. **Interagency Cooperation.** The District and County shall work cooperatively regarding, but not limited to, issues and policies relating to water, its supply and legal entitlements for the area within the Nipomo Mesa Water Conservation Management Area and Nipomo Valley as shown in Exhibit F. For project referrals concerning planning for land use, the provision of public services, utility and road rights-of-way, traffic and circulation, agricultural land and open space preservation, and General Plan Amendments, County Planning staff will continue to use the map shown in Exhibit C. Each jurisdiction party shall refer proposals, applications, and actions on a proposal/project to the other party. Information about the proposal/project shall be referred immediately to the following address for review and comment:

Division Manager, Long Range Planning
Department of Planning & Building
County Government Center
San Luis Obispo, CA 93408

General Manager
Nipomo Community Services District
148 South Wilson Street
PO Box 326
Nipomo, CA 93444

This provision shall not supersede or terminate other methods of commenting or providing feedback regarding a proposal or project, but is meant to enhance and increase interagency cooperation and communication.

MEMORANDUM OF AGREEMENT
NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE

4. **Commitment by the Nipomo Community Services District.** The District is currently designing and, with the assistance from the County, intends to construct a Waterline Intertie Project with the City of Santa Maria to deliver approximately 3,000 AFY of supplemental water (Phase I Project). The Phase I Project will deliver supplemental water to the District, the Woodlands, the Golden State Water Company and the Rural Water Company consistent with the Judgment and Stipulation in the Santa Maria Groundwater Adjudication. Water delivered to the District from the Phase I Project will be used to serve existing and future customers within the District's current boundary. The District intends to design and construct certain components of the Phase I Project with the capacity for delivery of an additional 3,200 AFY. This additional water (Phase II Project), and subject to appropriate financing mechanisms and approvals, is intended to provide supplemental water within the District's SOI as currently zoned, consistent with the District's Annexation Policy, dated xx/xx/xxxx, and the South County Area Plan (Inland) adopted in 1994, as amended to the date of this MOA by the County Board of Supervisors (except for existing litigation). The District in cooperation with County and other water purveyors intends to provide an adequate and reliable water supply to its existing customers and is planning for service to future customers. The District, in cooperation with the County, shall work to provide efficient and effective public services to residents in the Nipomo area. The District is committed to serving the area in the SOI as currently zoned, consistent with the District's Annexation Policy and the South County Area Plan (Inland) adopted in 1994 and as amended to date by the County Board of Supervisors. (Except for existing litigation)

The District's SOI is not intended to increase density or encourage urbanization in areas outside the Urban Reserve Line and/or Village Reserve Lines. The District does not encourage or promote projects that are inconsistent with the community's vision for Nipomo, as described in the South County Area Plan (Inland) adopted in 1994.

The District ~~will~~ does not intend to extend water or sewer services into Study Area 1 west or northwest of Hetrick Road, unless preceded by (i) a General Plan amendment initiated by the County that would extend the Urban Reserve Line into that area; and (ii) the approval of LAFCO. Subject to LAFCO approval and the delivery of Phase II Project supplemental water, the District will support extension of services into Study Areas 2 and 3 only with the approval of LAFCO. The District will not extend future/new sewer services into Study Area 4 except for the area south of Southland Street, identified as the Southland Specific Plan area in the South County Area Plan (Inland) adopted in 1994, unless the General Plan is amended. The District does not intend to, nor will it even then extend sewer service into Study Areas 4, 5, 7 or 8 unless authorized by a County General Plan Amendment and approval by LAFCO.

5. **Commitment by the County of San Luis Obispo.** The County shall work cooperatively with the District to efficiently and effectively provide for public services to residents in the Nipomo area. The County intends to continue implementing the vision, goals and policies of the existing South County Area Plan (Inland) adopted in 1994, and as amended from time-to-time by the County Board of Supervisors. The County does not intend, nor does it promote, expanding the existing Urban Reserve Line for the purpose of increasing the density allowed on a particular parcel of land unless approved as a General Plan Amendment or Specific Plan by the Board of Supervisors. The County shall strongly discourage the creation of new Private or Mutual Water

MEMORANDUM OF AGREEMENT
NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE

Companies-, or service by such entities to proposed land divisions within the Nipomo Mesa Water Conservation Area.

6. **Common Agreements by the County and NCSD.** The District and County acknowledge and agree on the following statements:
- a. Protection and management of the groundwater resource in the Nipomo Mesa Water Conservation Area is important for the future of the Nipomo community.
 - b. Current and first phase supplemental water supplies from the City of Santa Maria will not be sufficient to provide water service to the Sphere of Influence.
 - c. Continued approval of development based on water service from mutual and private water companies does not encourage the efficient and effective management of the groundwater resource and makes management of the groundwater basin more difficult.
 - d. Future development within the Sphere of Influence, as currently zoned in the South County Area Plan (Inland) adopted in 1994, is intended to be served by the District at such time when an adequate supplemental water supply to serve the development future customers is available and delivered to the District's storage and distribution system.
 - e. The County ~~intends to will~~ process current land use applications under the existing South County Area Plan (Inland) adopted in 1994, standards and policies.
 - f. Subject to LAFCO approval, ~~the~~ District will consider (within its supply capabilities) providing water service to existing developed properties within the Sphere of Influence that experience a documented water supply emergency such as what happened in the Summit Station Road Area.
 - g. The provision of community water service shall not be used to justify or support a change in zoning that would increase density in areas zoned Residential Rural.
 - h. The process of development within the District's Sphere of Influence shall be accomplished in the following order: 1) the District is consulted through referrals on land use applications; 2) Land Use approvals and CEQA documentation are approved and certified by the County; and 3) Annexation application is submitted by the property owner or District for consideration and approval by LAFCO.
7. **Urban Reserve Line and Sphere of Influence.** The County's Urban Reserve Line (URL) is the official boundary in the South County Area Plan (Inland) adopted in 1994, designating future urban growth. The District's SOI boundary as approved by LAFCO is not intended to show and/or encourage future urban growth or to compete with the URL. The SOI may be considered when some services that are provided by the NCSD, such as trash pickup, lighting or emergency provision of water as described above is desired by property owners. The Urban Reserve Line shall not extend beyond the SOI unless approved as part of a county initiated General Plan amendment. The County does not intend for areas that are zoned Agriculture, Rural Lands, and Residential Rural to be included within the Urban Reserve Line or served with urban services other than solid waste. Areas that are zoned Residential Suburban, Residential Single Family, and

**MEMORANDUM OF AGREEMENT
NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE**

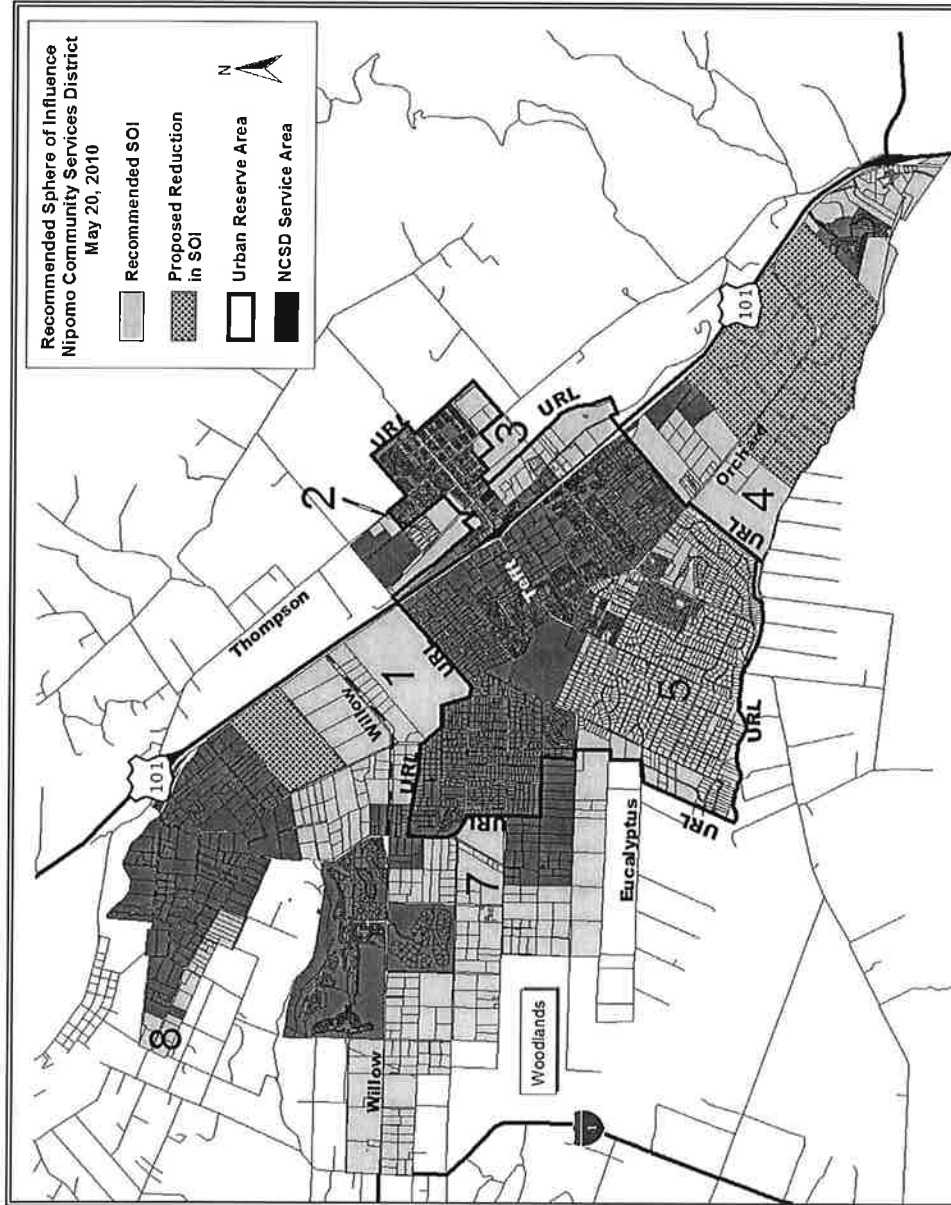
Residential Multi-Family are intended to be within the Urban Reserve Line and are included in the SOI.

Comment [c1]: I don't think we want to say Village Areas are eligible for service by the district, right? Aside from Black Lake Village Area, Callendar-Garret, Los Berros, and Palo Mesa Village Areas are not in the district's SOI.

8. General Plan Update/Specific Plans. The County is presently in the process of updating the Land Use and Circulation Element (LUCE) of the County General Plan for the unincorporated rural areas of the county. One of the goals of the LUCE is to identify possible least constrained areas adjacent to urban areas for possible future expansion of communities. Any such expansion would be considered at a later date in a separate update of the community general plan. Currently, the South County Area Plan (Inland) adopted in 1994, calls for the preparation of Specific Plans to identify land uses within the areas known as Canada Ranch and the area just south of Southland Street. These Specific Plans shall be prepared and adopted by the County prior to annexation of the property into the District.

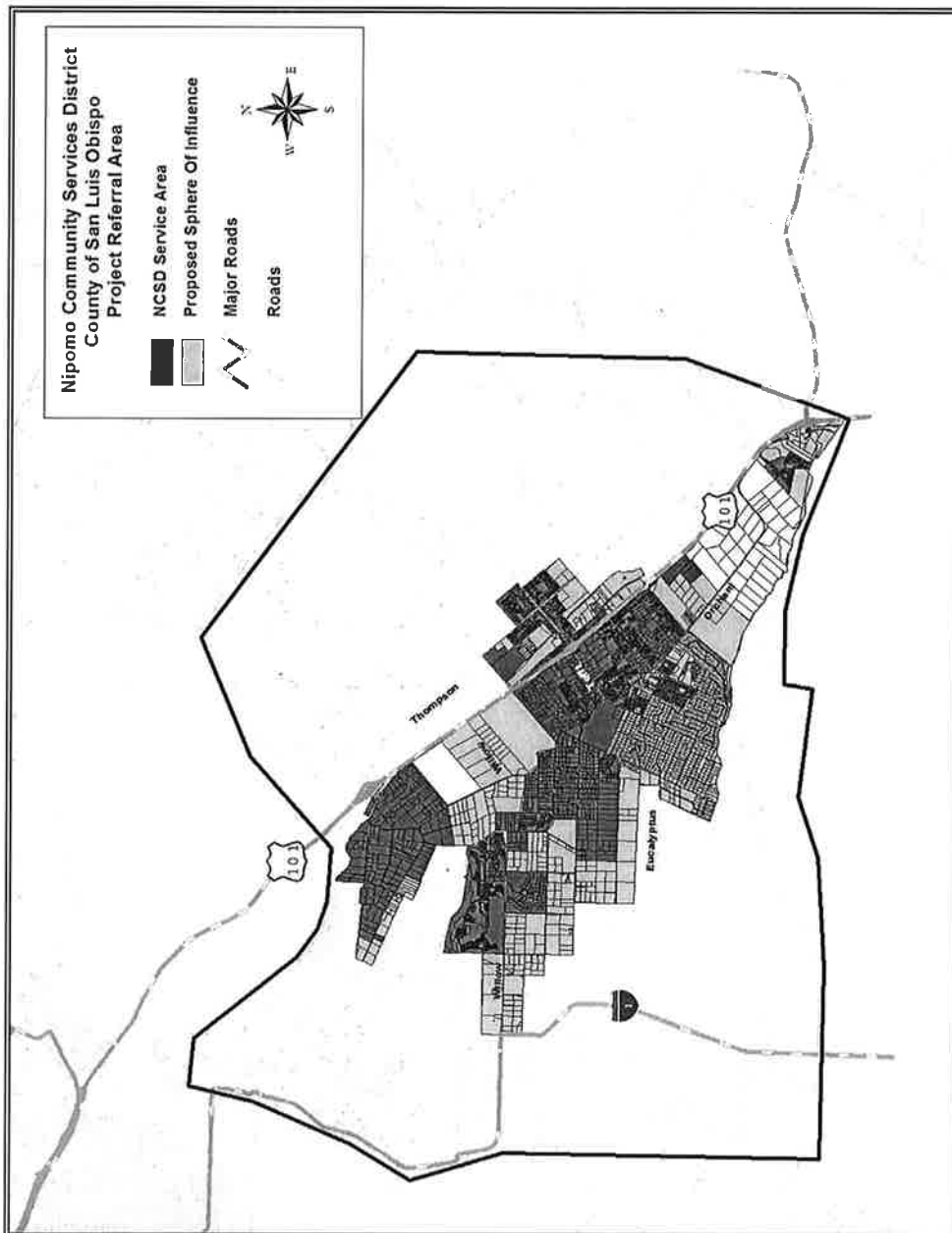
MEMORANDUM OF AGREEMENT
NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE

Exhibit B-Possible Sphere of Influence



MEMORANDUM OF AGREEMENT
NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE

Exhibit C-Project Referral Area



**MEMORANDUM OF AGREEMENT
BETWEEN THE NIPOMO COMMUNITY SERVICES DISTRICT (NCSD)
AND THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE**

Draft – June 14, 2010

This Agreement is entered into on this _____ day of _____, 2010 by and between the Nipomo Community Services District (hereinafter "District") and the County of San Luis Obispo (hereinafter "County").

WHEREAS, the Cortese-Knox-Hertzberg Act ("the Act" Government Code 56000 et seq.) requires the Local Agency Formation Commission ("LAFCO") to update the Spheres of Influence for all applicable jurisdictions in the County every five years; and

WHEREAS, the District and the County enter into this agreement with the common goals of preserving and protecting the rural character of Nipomo, identifying areas of potential urban and suburban growth using the existing South County Area Plan-Inland ("SCAP") implementing the District's annexation policies, and planning for future resource and service needs; and

WHEREAS, Section 56001 of the Act declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state; and

WHEREAS, the purposes of the Local Agency Formation Commission as stated in Section 56301 of the Government Code are to discourage urban sprawl, preserve open space and prime agricultural lands, efficiently provide government services, and to encourage the orderly formation and development of local agencies based upon local conditions and circumstances; and

WHEREAS, a Sphere of Influence is defined by Government Code Section 56076 as a "plan for the probable physical boundaries and service area of a local agency, as determined by the Local Agency Formation Commission", and is further defined in SLO LAFCO's Policies and Procedures as a 20-year growth boundary for a jurisdiction's physical development in; and

WHEREAS, the District and the County voluntarily enter into this agreement for the purpose of enhancing and promoting the orderly and logical development of the Nipomo Community; and

**MEMORANDUM OF AGREEMENT
NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE**

WHEREAS, this MOA contains three Exhibits, including: A-Provisions, B-Map of the Potential Areas for the Sphere of Influence, C-Map of Project Referral Area; and

WHEREAS, the County Board of Supervisors has certified a Level of Severity III for the Nipomo Mesa Water Conservation Area (June 2007), as indicated in the 2009 Annual Resources Summary Report; and

WHEREAS, the Santa Maria Groundwater Basin Litigation has resulted in a Stipulated Agreement and Final Judgment that calls for the management of the area's water resources;

WHEREAS, the District has adopted an Annexation Policy designed to protect and conserve water resources by requiring all annexations into the District to be supplied by supplemental water; and

WHEREAS, the County has adopted Ordinance 3090 establishing the Nipomo Mesa Water Conservation Area and specific development standards to protect and conserve water resources within the Nipomo Mesa Water Conservation Area; and

WHEREAS, while this agreement clarifies the intent and purpose of the District's and the County's policies regarding the Sphere of Influence, the agreement does not establish the Sphere of Influence for the District; and

WHEREAS, the County, through the inland South County Area Plan adopted in 1994, has established development policies and standards for the rural areas, village areas and within the Nipomo Urban Reserve Line that identifies the areas of urban and suburban development for the community; and

WHEREAS, the District and County have reached an agreement regarding the intent and purpose of the District's Sphere of Influence, the County's Urban Reserve Line and Village Reserve Lines as described in Exhibit A, Provisions; and

WHEREAS, the Sphere of Influence Boundary shall be established by the Local Agency Formation Commission based on the evaluation of the eight Areas shown in Exhibit B and may include all of the eight areas, a combination of Areas, a portion of some areas, or other

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configuration as approved by LAFCO. (Exhibit B is not intended to be the proposed Sphere of Influence and this agreement does not establish the Sphere of Influence.)

NOW, THEREFORE, the parties agree as follows:

1. The provisions found in Exhibit A are intended to state the common understandings and agreements between the County and the District regarding the District's Sphere of Influence, the County's Urban Reserve Line and Village Reserve Lines respectively.
2. The provisions found in Exhibit A are intended to provide the District and the County with guidance for evaluating future annexation proposals for the areas in the District's Sphere of Influence and do not supersede or limit either agency's mission of legislatively established function and do not bind either agency.
3. The parties agree that the above recitals are true and correct.

President, Board of Directors Date
Nipomo Community Services District

Chair, Board of Supervisors Date
County of San Luis Obispo

APPROVED AS TO FORM AND LEGAL EFFECT

District Counsel Date

County Counsel Date

ATTEST:

District Secretary Date

County Clerk-Recorder Date

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Exhibit A – PROVISIONS-Draft 6-14-10

The following provisions are agreed to and shall be used by the District and County to guide the development decisions within the Sphere of Influence as eventually approved by the San Luis Obispo Local Agency Formation Commission ("LAFCO").

1. **Intent.** It is the intent of the District and the County to work cooperatively toward the goals of preserving and protecting the rural character of the Nipomo area by: identifying areas of potential urban and suburban growth using the existing South County Area Plan (Inland, adopted 1994); implementing the District's annexation policies and procedures; and planning for future resource and service needs. These goals shall be achieved in accordance with the Cortese-Knox-Hertzberg Act ("CKH"), the County's General Plan, the Policies and Procedures of the District, the California Environmental Quality Act and any other applicable laws and regulations.
2. **Term.** Upon adoption of the District's Sphere of Influence ("SOI") by LAFCO, this agreement shall be reviewed, evaluated, or amended as necessary at such time as the SOI is updated by LAFCO, or concurrent with a comprehensive update of the South County Area Plan (Inland) adopted in 1994, as initiated by the County.
3. **Interagency Cooperation.** The District and County shall work cooperatively regarding, but not limited to, issues and policies relating to water, its supply and legal entitlements for the area within the Nipomo Mesa Water Conservation Management Area and Nipomo Valley. For project referrals concerning planning for land use, the provision of public services, utility and road rights-of-way, traffic and circulation, agricultural land and open space preservation, and General Plan Amendments, County planning staff will continue to use the map shown in Exhibit C. Each party shall refer proposals, applications, and actions on a proposal/project to the other party. Information about the proposal/project shall be referred immediately to the following address for review and comment:

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General Manager
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REGARDING THE NCSD'S SPHERE OF INFLUENCE**

water to the District, the Woodlands, the Golden State Water Company and the Rural Water Company consistent with the Judgment and Stipulation in the Santa Maria Groundwater Adjudication. Water delivered to the District from the Phase I Project will be used to serve existing and future customers within the District's current boundary. The District intends to design and construct certain components of the Phase I Project with the capacity for delivery of an additional 3,200 AFY. This additional water (Phase II Project), and subject to appropriate financing mechanisms and approvals, is intended to provide supplemental water within the District's SOI as currently zoned, consistent with the District's Annexation Policy, dated xx/xx/xxxx, and the South County Area Plan (Inland) adopted in 1994, as amended to the date of this MOA by the County Board of Supervisors (except for existing litigation).

The District's SOI is not intended to increase density or encourage urbanization in areas outside the Urban Reserve Line and/or Village Reserve Lines. The District does not encourage or promote projects that are inconsistent with the community's vision for Nipomo, as described in the South County Area Plan (Inland) adopted in 1994.

The District does not intend to extend water or sewer services into Study Area 1 west or northwest of Hetrick Road, unless preceded by (i) a General Plan amendment initiated by the County that would extend the Urban Reserve Line into that area; and (ii) the approval of LAFCO. Subject to LAFCO approval and the delivery of Phase II Project supplemental water, the District will support extension of services into Study Areas 2 and 3. The District will not extend future/new sewer services into Study Area 4 except for the area south of Southland Street, identified as the Southland Specific Plan area in the South County Area Plan (Inland) adopted in 1994, unless the General Plan is amended. The District does not intend to extend sewer service into Study Areas 4, 5, 7 or 8 unless authorized by a County General Plan Amendment and approval by LAFCO.

5. **Commitment by the County of San Luis Obispo.** The County shall work cooperatively with the District to efficiently and effectively provide for public services to residents in the Nipomo area. The County intends to continue implementing the vision, goals and policies of the existing South County Area Plan (Inland) adopted in 1994, and as amended from time-to-time by the County Board of Supervisors. The County does not intend, nor does it promote, expanding the existing Urban Reserve Line for the purpose of increasing the density allowed on a particular parcel of land unless approved as a General Plan Amendment or Specific Plan by the Board of Supervisors. The County shall strongly discourage the creation of new Private or Mutual Water Companies, or service by such entities to proposed land divisions within the Nipomo Mesa Water Conservation Area.
6. **Common Agreements by the County and NCSD.** The District and County acknowledge and agree on the following statements:
 - a. Protection and management of the groundwater resource in the Nipomo Mesa Water Conservation Area is important for the future of the Nipomo community.
 - b. Current and first phase supplemental water supplies from the City of Santa Maria will not be sufficient to provide water service to the Sphere of Influence.
 - c. Continued approval of development based on water service from mutual and private water companies does not encourage the efficient and effective

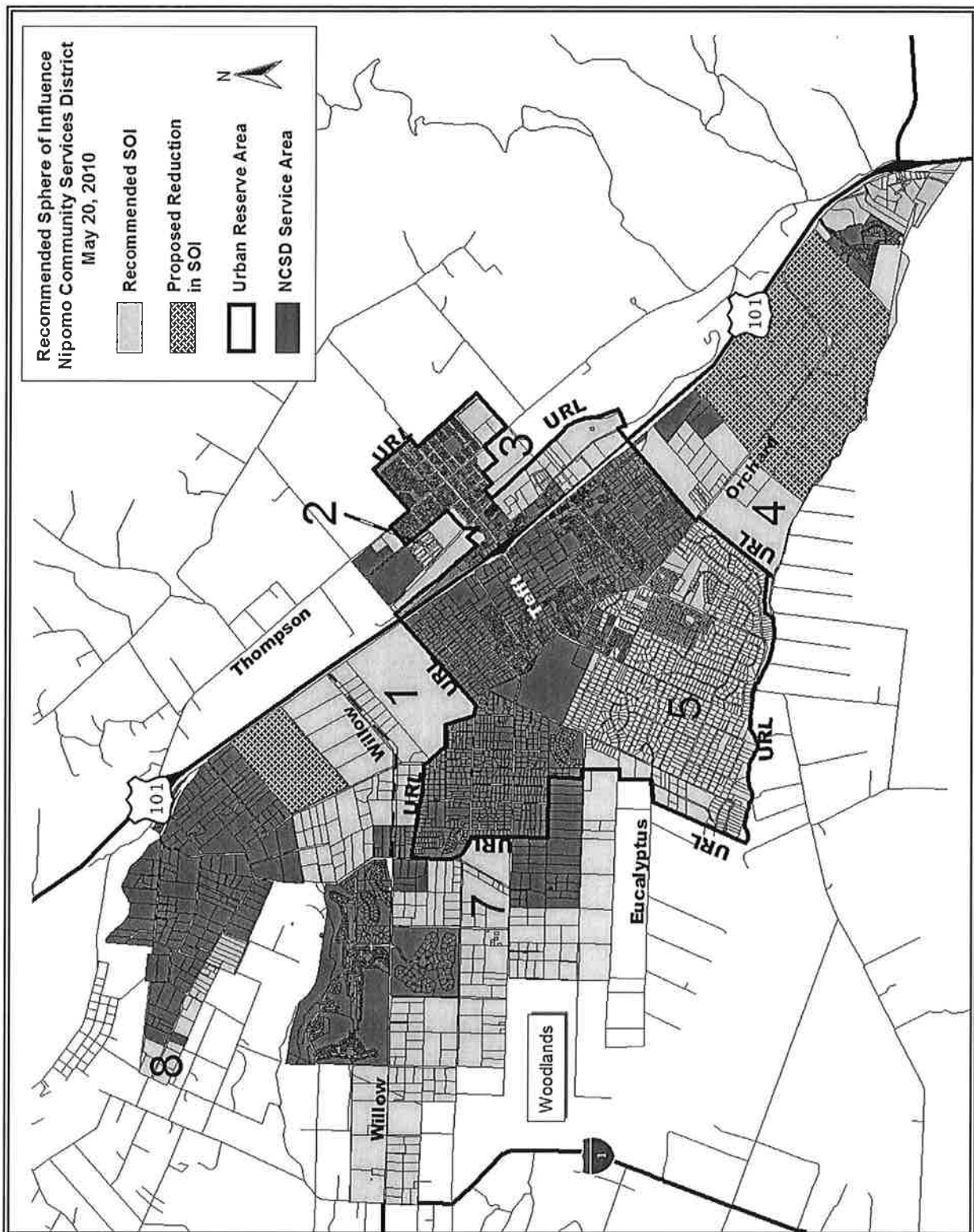
MEMORANDUM OF AGREEMENT
NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE

management of the groundwater resource and makes management of the groundwater basin more difficult.

- d. Future development within the Sphere of Influence, as currently zoned in the South County Area Plan (Inland) adopted in 1994, is intended to be served by the District at such time when an adequate supplemental water supply to serve the development is available and delivered to the District's storage and distribution system.
 - e. The County will process current land use applications under the existing South County Area Plan (Inland) adopted in 1994, standards and policies.
 - f. Subject to LAFCO approval, the District will consider (within its supply capabilities) providing water service to existing developed properties within the Sphere of Influence that experience a documented water supply emergency such as what happened in the Summit Station Road Area.
 - g. The provision of community water service shall not be used to justify or support a change in zoning that would increase density in areas zoned Residential Rural.
 - h. The process of development within the District's Sphere of Influence shall be accomplished in the following order: 1) the District is consulted through referrals on land use applications; 2) Land Use approvals and CEQA documentation are approved and certified by the County; and 3) Annexation application is submitted by the property owner or District for consideration and approval by LAFCO.
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8. **General Plan Update/Specific Plans.** The County is presently in the process of updating the Land Use and Circulation Element (LUCE) of the County General Plan for the unincorporated rural areas of the county. One of the goals of the LUCE is to identify possible least constrained areas adjacent to urban areas for possible future expansion of communities. Any such expansion would be considered at a later date in a separate update of the community general plan. Currently, the South County Area Plan (Inland) adopted in 1994, calls for the preparation of Specific Plans to identify land uses within the areas known as Canada Ranch and the area just south of Southland Street. These Specific Plans shall be prepared and adopted by the County prior to annexation of the property into the District.

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Exhibit B-Possible Sphere of Influence



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NIPOMO COMMUNITY SERVICES DISTRICT/THE COUNTY OF SAN LUIS OBISPO
REGARDING THE NCSD'S SPHERE OF INFLUENCE

Exhibit C-Project Referral Area

